

South Dakota Board of Technical Education



Considered on October __, 2017
Agenda Item _

2018 Proposed Legislation:

Background:

Two “cleanup” provisions have been recommended following the 2017 passage of Senate Bill 65, which established the South Dakota Board of Technical Education.

The first proposed amendment comes at the request of the South Dakota Health and Educational Facilities Authority (the “Authority”). The amendment would ensure the continued vitality of lease-purchase agreements that govern new bonds. The amendment replaces the maximum length of a lease-purchase agreement with a maximum length of bonds supported by the lease-purchase agreements, thus permitting the continued practice of maintaining the same operative lease-purchase agreement.

The second proposed amendment changes a reference from the Department of Education to the Board of Technical Education. It is the result of a scrivener’s oversight from Senate Bill 65. The amendment would require the Legislature to consider the Board of Technical Education’s analysis, rather than that of the Department of Education, when considering authorizing new bonds, notes, or other obligations.

Proposed Amendment to 13-39A-25:

13-39A-25. Provisions of lease-purchase agreements. A lease-purchase agreement authorized pursuant to § 13-39A-24:

- (1) ~~May be for a term of no more than thirty years;~~
- (2) Shall be approved by the governing body of the LEA;
- (32) May provide for the simultaneous conveyance of existing facilities to be leased back with the improvements and other property being financed;
- (43) May provide for all rights, title, and interest of the authority to be conveyed to the LEA or to the board upon payment or other discharge of the bonds issued therefor; and

~~(54)~~ May contain any other provision the authority and the board determine is necessary or appropriate to secure payment of amounts due under any agreement. No other provision of law may limit or otherwise restrict the power and authority of an LEA or the board to enter into a lease-purchase agreement or govern the procedure by which an agreement is authorized.

No bonds issued by the authority and supported by such lease-purchase agreements shall have a stated maturity in excess of thirty years from the date of issuance.

Source: SL 2017, ch 81, § 25.

Proposed Amendment to 1-16A-95:

1-16A-95. Legislative approval required for issuance of additional obligations. The issuance of any additional bonds, notes, or other obligations of the authority which are payable out of receipts, rentals, and other payments made pursuant to lease purchase agreements with the Western Dakota Technical Institute, the Southeast Technical Institute, the Lake Area Technical Institute, the Mitchell Technical Institute, or the South Dakota Board of Technical Education under the authority of chapter 13-39A shall be approved by the Legislature before issuance. The South Dakota Board of Technical Education shall approve the issuance of additional bonds, notes, or other obligations prior to issuance. The Legislature in accordance with §§ 1-16A-93 and 1-16A-94 and applicable administrative rules shall consider the ~~Department of Education's~~ Board of Technical Education's analysis prior to authorizing any additional bonds, notes, or other obligations. The requirement, however, for approval by the Legislature before issuance does not apply to the issuance of bonds for the purposes of refinancing or refunding existing bonds, notes, or other obligations.

Source: SL 2013, ch 6, § 3; SL 2014, ch 93, § 12, eff. Mar. 28, 2014; SL 2015, ch 6, § 2; SL 2017, ch 81, § 50.

Draft Motion:

I move to authorize the Executive Director to submit the proposed amendment to 13-39A-25 and 1-16A-95, to prepare additional, related legislation that may be required, and to make reasonable modifications throughout the course of the bill's consideration so long as the modifications or amendments do not change the intent or purpose of the authorized amendment. The Executive Director shall consult with the Board President and other interested board members before submitting additional legislation considered necessary.